



May 22, 2017

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

[Submitted via FCC Electronic Comments Filing System]

Re: NOTICE OF EX PARTE on CTIA's PETITION FOR RECONSIDERATION *and* FURTHER NOTICE OF PROPOSED RULEMAKING PS Docket 15-91 Improving Wireless Emergency Alerts and Community-Initiated Alerting; PS Docket 15-94 Amendment to Part 11 of the Commission's Rules Regarding the Emergency Alert System.

Dear Secretary Dortch:

On May 19, 2017, representatives of the New York City Emergency Management Department ("NYCEM") and the New York City Department of Information Technology and Telecommunications ("DoITT") participated in an *Ex Parte* conversation on the above referenced matters with Daudeline Meme, Legal Advisor for Wireless, International and Public Safety for Commissioner Mignon Clyburn.¹ A summary of our discussion is found on the following pages.

NYCEM sincerely appreciates the Commission's ongoing efforts to improve Wireless Emergency Alerts and looks forward to continuing to work with the Commission in crafting and implementing the regulatory changes necessary to enhance this critical system. Further communication on this matter may be directed to the undersigned.

Respectfully submitted,

/s/

Benjamin J. Krakauer, MPA
Assistant Commissioner, Strategy & Program Development

¹ **NYCEM Participants** – Benjamin J. Krakauer, Assistant Commissioner for Strategy and Program Development; Rachel Sulaymanov, Director of Intergovernmental Affairs; **DoITT** – Zachary Gold, Telecommunications Policy Coordinator.





PETITION FOR RECONSIDERATION

Embedded References / URLs

NYCEM reiterated our opposition to any further delay with respect to the ability for alert originators to include embedded references, most notably URLs, in WEA messages. As the Commission is aware, NYCEM utilized the WEA system three times in response to the September 17, 2016 bombing in Manhattan's Chelsea neighborhood, including a citywide message at the request of law enforcement enlisting the public's support in locating the alleged perpetrator. Due to the limitations of the WEA system, that citywide message was unable to include a photograph and/or a link to a photograph of the alleged perpetrator. Instead, our message directed consumers to "see media for pic".

Following NYCEM's use of the WEA system, the City commissioned a study to receive feedback from the public on our use of the WEA system, inform future practices, and support our on-going advocacy efforts to improve the WEA system for the nation. While 89% of survey respondents found our use of the WEA system to be appropriate, only 45% of respondents indicated that they subsequently sought out the photograph via other media sources.² The inclusion of a specific link would likely have increased the number of consumers who viewed the photograph and, thus, increased the chances that a consumer would have recognized the suspect. Given today's threat environment and the limitations of the WEA system, it is absolutely critical that alert originators have the ability to include URLs that direct consumers to additional information during an emergency.

Further, NYCEM emphasized that CTIA's central argument surrounding the need for delayed implementation of URL inclusion is entirely unsupported in the Petition for Reconsideration. Neither CTIA's petition nor the full record offers any evidence that the inclusion of URLs will lead to network congestion. Instead, CTIA's petition references various website failures which are beyond the responsibility of CMSPs.³ Regardless of whether network traffic is directed to a particular website via an alert originator-provided link or via individual consumer behavior, the CMSP networks are being utilized. Absent evidence to the contrary and in consideration of the robust public record on this matter, NYCEM strongly urges the Commission to uphold the Report and Order as written.

Embedded References on Feature Phones ("non-smart" devices) & Existing Devices

NYCEM restated its position that embedded references should be included on all devices, including those that are not internet capable. It would be inequitable for a consumer's decision to purchase a feature phone over a smartphone (which may be related to the relative price) to limit the amount and type of information that the consumer receives in a WEA message. While the consumer may be unable to access the information via phone by an included link, the consumer has the option of entering the URL into another internet-capable device. By arbitrarily not including the link, the same consumer is precluded from utilizing that same option.

² *Survey Findings & Analysis: Emergency Alerts Survey*, Global Strategies Group, September 28, 2016. (Note: margin of error: +/- 4.9% at 95% confidence interval).

³ Petition for Reconsideration of CTIA, December 1, 2016 at 2-7.



NYCEM strongly disagrees with CTIA's request that "support for embedded references can only be implemented on new devices"⁴ While NYCEM appreciates that the CMSPs do not have any direct control over the various device manufacturers, they do share strong, interdependent business relationships. As such, NYCEM believes that it is more than reasonable for the CMSPs to work with the device manufacturers on developing and distributing the necessary software changes to support embedded references on devices that are already in the marketplace. NYCEM noted that device manufacturers routinely deploy operating system software updates for a variety of reasons. There is no reason that the necessary operating system changes to support embedded references could not be packaged in a future update that is distributed to existing consumer devices.

Support for Spanish-Language Alerting

NYCEM reiterated its position that the ability for alert originators to distribute messages in Spanish is of critical importance and should not be delayed beyond two years. While NYCEM fully recognizes that messaging in Spanish will require a greater number of characters than the equivalent English message this, alone, is not a reasonable reason to delay implementation. Instead, the Commission should uphold the compliance timeframe specified in the Report and Order and allow alert originators to determine how best to implement Spanish-language alerting for their jurisdiction. NYCEM notes that there are a number of options available to alert originators including, but not limited to:

- Distributing one message in English and one message in Spanish to the same alert area.
- Solely distributing a Spanish message (as may be appropriate based on the location of an emergency and the alert originators knowledge of an area's demographic makeup).
- Distributing an alternate message in Spanish with a message detailing where the consumer may obtain additional, specific information.

FURTHER NOTICE OF PROPOSED RULEMAKING

Improved Geo-targeting

NYCEM expressed its appreciation to the Commission for codifying geo-targeting improvements in the Report and Order but stated that additional enhancements are urgently needed. NYCEM truly appreciates the voluntary efforts of many of the CMSPs to improve their geo-targeting practices below the "county level" prior to the Commission's recent order. However, as evidenced by NYCEM's use of the WEA system during the Chelsea bombing, it is clear that device-based geo-targeting is necessary to ensure messages are distributed to the appropriate audience.

As context for this discussion, NYCEM explained that WEA was used twice during the night of the Chelsea bombing: once to inform nearby residents that they needed to shelter in place while NYPD managed a secondary device and, again, alerting the same residents that the shelter-in-place order was

⁴ Petition for Reconsideration of CTIA, December 1, 2016 at 9.



lifted. These messages were geo-targeted to a narrow portion of Manhattan surrounding the affected area. Despite the geo-targeting, NYCEM received anecdotal reports (including those from members of its own staff) of devices far from the target area receiving the message. NYCEM is deeply concerned that receipt of improperly targeted messages will lead to both warning fatigue and consumer opt outs.

Multimedia Alerting

NYCEM reviewed its strong position that the WEA system be upgraded to support embedded images in WEA messages. Consumers around the world are sharing images, videos, and other multimedia content with each other on a continuous basis but our nation's WEA system remains unable to support such technology. As previously cited in this filing, NYCEM's research discovered that only 45% of recipients of New York City's requests for the public's assistance in locating the suspected bomber sought out a picture following receipt of the WEA message. If the image was embedded in the WEA message, all recipients who read the message would immediately see the image. Further, NYCEM noted that embedded images (e.g., infographics, diagrams, etc.) would allow WEA messages to be more accessible to individuals with limited English proficiency.

Many-to-One Feedback

NYCEM highlighted the need for the WEA system to support bi-directional feedback from consumers who received an alert to the alert originator through the IPAWS aggregator. Such information will enable public safety entities, emergency managers, and executive decision makers to more quickly and efficiently deploy scarce resources during an emergency.

Multilingual Messaging

NYCEM highlighted its continued position that the WEA system needs to be upgraded to support languages beyond English and Spanish. NYCEM advised the Commission that, in response to local legislation, it is taking steps to upgrade the NotifyNYC system to distribute messages in *at least* the seven most commonly spoken languages in the City. Within two years, NotifyNYC subscribers will be able to select their preferred language at the point of registration and then receive messages in the selected language.

Alert Preservation

NYCEM strongly advocated for a requirement that WEA messages remain preserved on a consumer's device until deleted by the user. Using the context of New York City's Coastal Storm Plan, NYCEM explained that a general population evacuation order would be given 48 hours before the onset of tropical storm force winds. The WEA message announcing the evacuation order will likely direct consumers where to go for additional information and how to find their evacuation center. It is critical that consumers have the ability to return to that WEA message for reference as they prepare to evacuate.